

## **REMARKS**

Claims 1-4 are pending in the application. Claims 1-4 stand rejected in the referenced office action. The Specification has been objected to. In addition, the drawings filed on November 12, 2009 have been accepted. No new matter has been added.

### ***Specification***

Examiner objected to the specification for not using the proper language and format for an abstract of the disclosure. The specification has been amended to have less than 150 words, as shown above, to address the objection.

### ***Claim Rejections - 35 USC § 112***

Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner stated the following with regards to claim 1:

In regards to claim 1, the language "wherein the pressure control valve . . . downstream of the check valve" (line 11 -13) appears to present a new matter issue. The examiner cannot ascertain from the specification, specifically from the figure whether the pressure control valve 13 is indeed downstream of the check valve 10.

Applicant notes that the amendment is supported by at least paragraph 8 of the published application. In particular, the specification recites, "the compressed-air reservoir is provided with a pressure control valve for establishing an overpressure in the entire breathing system upstream of the breathing valve and downstream of the check valve . . . ."

Accordingly, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. 112, first paragraph.

### ***Claim Rejections - 35 USC § 103***

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Botos et al. (4,031,887, hereinafter “Botos”) in view of Hill et al. (6,629,525, hereinafter “Hill”). Claim 1 is independent.

The cited art fails to teach or suggest each element of claim 1. For example, Botos does not disclose

A portable breathing apparatus comprising a face mask having a demand valve, a blower for the supply of breathing air from an external ambient source . . . and a compressed-air reservoir for alternative supply of breathing air to the demand valve . . . wherein the pressure control valve is upstream of the breathing valve and downstream of the check valve, so that gas or liquid from the surroundings cannot penetrate into the system when breathing gas is supplied from the compressed-air reservoir. (Emphasis added.)

Applicant notes that the specification discusses the check valves in detail, as they provide a specific function in the arrangement. For example the specification recites, “Both of the check valves 9 and 10 in this situation will be completely closed. Water therefore will not be able to enter and cause damage on blower, filter, etc.” See Application, para. 17.

In contrast, Botos fails to recite a check valve in any configuration. In the Final Office action, the Examiner appears to equate element 11 with a check valve. However, element 11 of Botos only refers to a valve, not a check valve capable of performing the tasks described in the specification and claims. In addition, nothing in Botos, including element 13, refers to a check valve capable of performing the disclosed tasks.

Botos does disclose a breathing apparatus that is used under water or in noxious environments, wherein the apparatus uses a dosing bottle to provide pressurized gas – not a filter to provide ambient air to the user, as recited in claim 1. See Botos, column 1, lines 11-16.

Thus, Botos fails to teach or suggest at least one element of claim 1.

Hill is cited for providing an apparatus for a blower. Thus, Hill fails to cure Botos' deficiencies.

Therefore, the cited art fails to teach or suggest each element of independent claim 1. Accordingly, Applicant submits that claim 1 is not obvious over Botos in view of Hill.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botos and Hill, in view of Wallen (6,035,851, hereinafter "Wallen"). Claims 2-4 depend from claim 1.

Wallen is cited for teaching parallel filter units. Thus, Wallen fails to cure the deficiencies of Botos and Hill discussed above.

Therefore, dependent claims 2-4 are patentable for at least the reasons provided above with respect to independent claim 1. Accordingly, Applicant submits that claims 2-4 are not obvious over the cited references.

## **CONCLUSION**

For all the foregoing reasons, Applicant submits that the application is in a condition for allowance. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 06-1130 (TAN-1001US).

Respectfully submitted,

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